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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,959	01/26/2004	Dale J. Crook	CRO044/107780	9333
7590 01/03/2006			EXAMINER	
Thomas A. O'Rourke Bodner & O'Rourke, LLP 425 Broadhollow Road Melville, NY 11747			SANDY, ROBERT JOHN	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/764,959	CROOK, DALE J.	
	Examiner	Art Unit	
	Robert J. Sandy	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7 and 9-17 is/are rejected.
- 7) ☒ Claim(s) 2 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 1, 11, 14, 16 and 17 are objected to because of the following informalities:

In claim 1, line 5, "each rachet teeth" should be changed to - - each ratchet tooth - -.

(Note spelling of "ratchet")

In claim 1, line 5, a comma (,) should be inserted after "surface" in order for the phrase "surface said base" to properly read as "*surface, said base*".

In each of claims 11, 14, 16 and 17, "rachet" should be changed to - - ratchet - -.

In claim 16, recitation of "comprising and said edges" and "having a base a body and an upper tooth surface each of said body portions .." is of non-idiomatic English.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as to the following:

In claim 10, line 6, the phrase "bottom surface said surface" is not understood.

Furthermore, recitation of "said surface" is indefinite for not distinguishing between the claimed subject matter of a *top surface* or a *bottom surface*.

In claim 17, there is no antecedent basis for "said sloped ramp side".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda et al. (U.S. Patent No. 5,224,244). Ikeda et al. ('244) discloses an adjustable tie strap, comprising: an elongated narrow web (B) having first and second ends; said web having a first edge and a second edge extending from said first and second ends. said web having between said edges and said ends thereof a plurality of spaced apart ratchet teeth (defined between recesses 6) each ratchet tooth having a base and an upper tooth surface, said base of said teeth forming a substantially closed surface between said edges and said ends; said first end including a fastener (4) having an aperture (2), said fastener including a pawl (3c) positioned to engage one of said teeth to prevent withdrawal of said web from said fastener when said second end is inserted through said aperture; and a release tab (3d) coupled with said fastener for flexing said fastener to disengage said pawl from said one of said teeth for releasing said web from said fastener; (concerning claim 3) the ratchet teeth are protrusions oriented transverse to the web; (concerning claim 4) the fastener is integral with the first web end (B'; Fig. 4(b)); (concerning claim 5) the fastener includes a flexible tongue (3b) and said pawl (3c) is located on said tongue; and (concerning claim 6) an anchor tab (7, Fig. 5) extending from said fastener in spaced relation to said release tab.

Claims 7, and 9-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyons. (U.S. Patent No. 5,644,819). Lyons ('819) discloses an adjustable tie strap, comprising: an elongated narrow web (19) having first and second ends and a top surface and a bottom surface; said web including on a surface thereof a plurality of spaced apart ratchet teeth (20) said first end including a fastener (12) having an aperture (15), said aperture being disposed such that when the second end of the web passes through said aperture said bottom surface of the web

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contacts the top surface of web (as shown in Figs. 1 and 8); said fastener including a pawl (17) positioned to engage one of said teeth to prevent withdrawal of said web from said fastener when said second end is inserted through said aperture; and a release tab (17a) and an anchor tab (14) positioned in spaced relation coupled with said fastener, and said release tab being positioned to flex (Fig. 8) said fastener to disengage said pawl from said one of said teeth for releasing said web from said fastener; (concerning claim 9) the fastener includes a top wall, a bottom wall and a pair of side walls (see Fig. 2); the top wall includes a flexible tongue (18); and said pawl is located on said tongue; and (concerning claims 17 and 15; detailed in Fig. 8) the ratchet teeth have a shoulder side and a ramp side, the shoulder side being generally orthogonal to the web and faces the fastener while the sloped ramp.

Concerning claim 10-12, as best understood, Lyons ('819) further discloses where the aperture being formed by the top surface and the bottom surface, the surface disposed in a direction parallel to the first strap portion, and the pawl being substantially the same width as the ratchet teeth.

Concerning claim 13, the ratchet teeth are oriented transverse to the web.

Concerning claims 14 and 16, each of the ratchet teeth having a base and an upper tooth surface forming an acute angle with the base (detailed in Fig. 8).

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

The indicated allowability of claim 13 is withdrawn in view of the newly discovered reference(s) to Lyons (U. S. Patent No. 5,644,819). Rejections based on the newly cited reference have been provided herein above.

Claims 2 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ROBERT J. SANDY
PRIMARY EXAMINER

Robert J. Sandy
Primary Examiner
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